



City of
Rockville
Get Into It

**Board of Appeals Staff Report
Special Exception SPX2012-00385
1235 Potomac Valley Road**

MEETING DATE: April 13, 2013

REPORT DATE: April 5, 2013

FROM: Cas Chasten, Planner III
Planning Division
240.314.8223
cchasten@rockvillemd.gov

APPLICATION DESCRIPTION: A major modification of previously approved Special Exception Applications S-50-61 and SPX1996-0245. This major amendment to the home's existing special exception will be limited to operational/staffing changes, site modifications to landscaping, installation of new site signage, stormwater management improvements, forest conservation, expansion of on-site vehicular parking, replacement of an emergency generator, and increased site storage. The property is approximately 4.5 acres in size and zoned for R-90 (Single Unit Detached Dwelling (Restricted Residential) land usage.



APPLICANT: Potomac Valley Nursing Facilities, Inc.
Attn: Leah Bowden, Administrator
1235 Potomac Valley Road
Rockville, Maryland 20850

FILING DATE: February 17, 2012

RECOMMENDATION: The Board of Appeals approve the applicant's special exception modification proposal to expand site surface parking and implement other building and site improvements as described herein (Ref. 25.15.01.b.2. of the Zoning Ordinance).

EXECUTIVE SUMMARY: The applicant's (Potomac Valley Nursing Facilities, Inc.) proposed site and building improvements have been deemed to be a major modification of the site's existing special exception applications SPX96-0245 and S-50-61 by the Chief of Planning. Under the referenced provisions of the ordinance, the Board of Appeals is required to hold a public hearing to consider the request. While the applicant does not propose to proceed with the building addition previously planned when the application was filed on February 17, 2012, there will be 30 additional staff members added to the peak day time work shift, requiring onsite parking facilities be expanded by 30 additional parking spaces. With an increase of 30 new staff members, there would be additional persons accessing the site either via personal vehicle, public transit, or by other modes of travel. As required in the submission of the modification request, a transportation report was submitted in accordance with requirements of the City's Comprehensive Transportation Review (CTR) guidelines. The report found that the additional vehicular trips generated by the increase in staff will not exceed 30 new additional peak hour trips, thus not requiring a more extensive traffic study. It was also the findings of the report that the additional trips generated by the staff increase will not adversely impact "the nearby intersection of Falls Road (MD 189) and Great Falls Road/Potomac Valley Road currently operating at a Level of Service "A" condition throughout the day."

In the subject case, the Board of Appeals review will be to determine whether the subject proposal which includes but is not limited to, 1) expanding the existing site parking facilities, 2) adding 30 additional staff members to the daytime work shift, 3) constructing 30 new onsite vehicular surface parking spaces, 4) replacing the building's emergency electrical generator with a new more modern generator, 5) installation of new storage sheds coupled with relocation of two existing storage sheds, and 6) other site improvements proposed and described in the request, will not substantively alter the use and operation of the existing nursing home, as approved under the special exceptions as noted herein.

Table of Contents

RECOMMENDATION	3
SITE DESCRIPTION.....	4
PROJECT DESCRIPTION.....	6
Proposal.....	6
COMMUNITY OUTREACH	13

Attachments:

1. Aerial Map
2. Planned Land Use Map
3. Zoning Map
4. Application Materials
5. Noise Analysis
6. Notice of Violation
7. Pre-Application SWM Approval
- * Exhibits 1 thru 8 also include in this staff report.

RECOMMENDATION

Staff recommends approval, with the following conditions:

- 1). The proposed building and site improvements are to be constructed and implemented in accordance with site development and buildings plans respectively prepared by VIKA Maryland LLC aka VIKA Inc. and A.R. Meyers & Associates Architects, Inc.
- 2). The size/square footage of each of the existing and proposed storage sheds must be denoted and referenced on site plan sheet #SP-1, i.e., as shown at the respective locations on the plan (ref. Section 25.15.01.b.2.(c) of the Zoning Ordinance).
- 3). Provide wheel stops for all parking spaces which are 16 feet in length that are permitted to have a two (2) foot overhang beyond the paved surface, i.e., this includes all spaces located in the new parking area and those that make up the southern row of spaces located near the proposed generator/fuel tank/storage shed area (ref. Section 25.16.06.b.4.(a) of the Zoning Ordinance).
- 4). Applicant must comply with all conditions of the Pre-Application stormwater management (SWC) Concept approval letter dated March 22, 2013.

- 5). Applicant must comply with all conditions of the Notice of Violation letter issued by the Department of Public Works (DPW) and dated December 15, 2011.
- 6). A Final Forest Conservation Plan shall be submitted in connection with the Site Plan and reflect the following revision to the Preliminary Forest Conservation Plan: a) In collaboration with the Department of Public Works revise the storm drain connection from the micro-bio retention pond to avoid removal of Tree #39.
- 7). All forest conservation and significant tree replacement requirements shall be met on site.
- 8). Provide supplemental planting as directed by the City Forester's office within the forest conservation easement area along the eastern property line adjacent to lots 1, 2, and 3 of New Mark Commons (Block E). Up to 24, 6-7 feet high evergreen trees consisting of at least two species may be required.

SITE DESCRIPTION

According to city records, the Potomac Valley Nursing Home was constructed in the 1960s (circa 1963), under approval of Special Exception Application S-50-61. The property is 4.4 acres (196,227 square feet) in size, improved with a 52,121 gross square feet (two-story and basement) nursing home building structure, masonry in construction. The facility is a 175 bed nursing home; services provided include 24-hour nursing care for injury, illness, and advanced aging, rehabilitation therapies, short term therapies, end-of-life/palliative care, behavioral health care, nutrition therapies, and specialized care for Alzheimer's and memory impairments. The facility operates under three work shifts which are as follows: a) Shift 1 – (11:00 p.m. to 7:00 a.m.; b) Shift 2 – (7:00 a.m. to 3:00 p.m.; and c) Shift 3 – (3:00 p.m. to 11:00 p.m.).

The property is located approximately 900 feet southeast of Falls Road (MD 189) and is bounded to the west and south by undeveloped woodlands, and to the north and east by single family detached dwellings. The site has approximately 343 feet of street frontage along Potomac Valley Road. While there is no pedestrian sidewalk located along the site's frontage at present time, the applicant is proposing to construct a sidewalk along site frontage segment west of the site entrance, which will connect to the existing walkway to the west of the site. Potomac Valley Road is designated as a Primary Residential Class 2 roadway with a posted speed of 25 miles per hour (MPH) in the vicinity of the subject site.

Vehicular access to the site is provided via a single site entrance onto Potomac Valley Road. Onsite surface parking facilities are located in the front northwest area of the site and in the rear of the facility. The site's onsite parking facilities as currently designed, contain a total of 87 parking spaces. There are several accessory structures, ranging in size, located directly behind the rear southeast corner of the building. Also, the facility's above ground electrical generator and fuel tank are currently located in the rear of the site, i.e., on the south side of surface parking spaces abutting the site's rear lot line.

The property is zoned for R-90 (Single Unit Detached Dwelling, Restricted Residential) land usage and is located in Planning Area 3 as designated by the City's Master Plan, i.e., the Hungerford, Lynfield and, New Mark Commons residential neighborhoods. The site contains a variety of mature trees, shrubs, and other vegetative materials all ranging in species and size.

Aerial View from the West



While much of the property as developed is relatively flat, site surface grades range from gradual to pronounced sloping, primarily in and around those areas of the site's eastern, southern, and southwestern tract boundaries. Due to the abundance of the large forested areas that border the site's western, southern, and eastern tract boundaries, the subject site is well screened from the abutting and neighboring properties. However, it is important to note

that the forested area located along the site's eastern tract boundary is not as substantial as that of the southern and western areas of the site, thus allowing the neighboring homes located along Don Mills Court greater visibility of the nursing home facility.

Surrounding Land Uses and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	R-90 (Single Unit Detached, Restricted Residential) & PD-NM (Planned Development – New Mark Commons	Detached Residential (High Density – Over 4 Units per acre)	Single Unit Detached Residential
East	R-90 (Single Unit Detached, Restricted Residential) & PD-NM (Planned Development – New Mark Commons	Detached Residential (High Density – Over 4 Units per acre)	Single Unit Detached Residential
South	R-90 (Single Unit Detached, Restricted Residential)	Detached Residential (Medium Density – 2.5 to 4 Units per acre)	(Undeveloped) Woodlands
West	R-90 (Single Unit Detached Dwelling, Restricted Residential)	Detached Residential (Medium Density – 2.5 to 4 Units per acre)	(Undeveloped) Woodlands

PROJECT DESCRIPTION

Proposal

As previously noted, the existing nursing was constructed in the early 1960s under grant of Special Exception S-50-61. In early 1997 the nursing home was expanded, under grant of Special Exception SPX96-0245. Under that special exception approval, additional building space was created via enclosing the (then) existing deck structures located at each end of the north and west building wings respectively. A total of 3,168 square feet was added to the building via this expansion. In accordance with the information provided, today the building is approximately 52,121 gross square feet in size, consisting of two floors and a basement level.

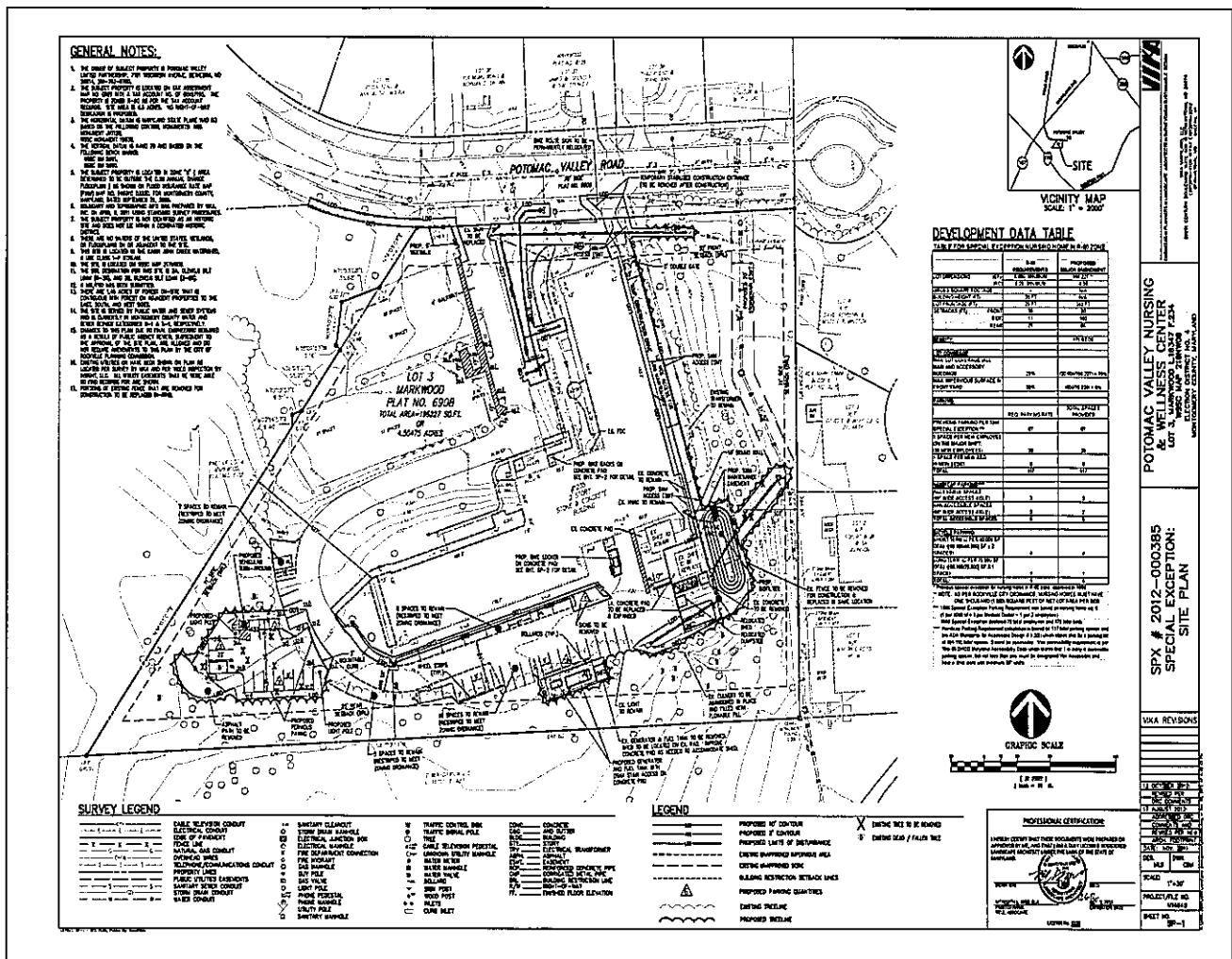
Under the subject modification request, the applicant proposes the following staffing, building, and site improvements: a) increase daytime staffing levels by 30 new staff members; b) expand the site's existing 87 space parking facilities by adding 30 new parking spaces; c) replace and relocate the facility's above ground generator and accompanying fuel tank; d) replace and relocate existing and proposed accessory buildings; e) relocate trash and recycling facilities; f) install and plant new trees and other vegetative materials as directed by the City Forester; g) construct a new pedestrian sidewalk along the western segment of the site's street frontage; h)

(Major Modification) Special Exception SPX2012-00385
Potomac Valley Nursing & Wellness Center
April 5, 2013

construct a new stormwater management/micro bio-retention facility; i) replace and install new fencing along the site's eastern boundary; and j) replace the existing site identification/monument sign.

In an effort to screen the relocated trash facilities, along with the existing, new, and relocated accessory buildings from the open view of the neighboring properties located to the east on Don Mills, additional evergreen trees will be planted to supplement the existing forested area lying between the subject properties. As shown on the proposed site plan, the new surface parking spaces being constructed in the southwestern area of the site will not be within open view of any of the abutting properties. The new parking spaces are well screened by heavily wooded undeveloped properties to the west and south. Once completed, there will be a total of 117 surface parking spaces located on the subject site.

Proposed Site Plan



When the nursing home was expanded in 1997 under previously approved Special Exception SPX96-0245 and Use Permit USE96-0568, the site's parking facilities did not comply with parking requirements of the Zoning Ordinance and thus deemed to be a site "development nonconformity." As a condition of SPX96-0245 approval, the applicant was required to construct 11 additional onsite parking spaces, bringing the total number of parking spaces provided to 87 spaces, into compliance with (then) Section 25-395(18) of the Ordinance.

Aerial View Looking West



Under the subject modification request, the applicant affirms that since the last approval of SPX96-0245 in 1996 "there has been an increasing number of visiting specialists providing specialized services to residents of the nursing home, coupled with a gradual need to increase the number of full-time day shift staff members." It is further noted that such a staff level increase is needed in order to respond to more complex resident needs and to stay in line with progression in the nursing home industry and regulations. Under the proposal to increase the number of day shift staff by 30 employees, Section 25.16.03.d. of the Zoning Ordinance requires the applicant to construct/provide 30 additional parking spaces bringing the total number of spaces provided to 117, e.g., one (1) space for each new employee.

[illegible]

Forestry Comments for Potomac Valley Nursing Home Special Exception staff report:

A Preliminary Forest Conservation Plan (FCP) was submitted and approved in connection with the Special Exception plan. The approval letter and plan are included with this staff report. The project is required to meet all of the Forest and Tree Preservation Ordinance (FTPO) requirements on site, including forest conservation, minimum tree cover and significant tree replacement. Final tree locations and types are subject to change during site plan and detailed engineering review.

Forest Conservation

The project will preserve sufficient forest on site so that reforestation is not required for the proposed clearing of 0.18 acres of forest. The site contains 1.38 acres of forest and of that; 1.20 acres will be retained in a forest conservation easement. The City Forester's office is recommending that the Board approve a condition to supplement the forest conservation area along the eastern property line adjacent to Lots 1, 2, and 3 in order to provide additional screening. The supplemental planting should consist of a mix of up to 24 evergreen trees, 6-7' high, with the planting locations reviewed and approved by the City Forester's office. The planting should occur within six months of issuance of the Forestry permit.

Minimum Tree Cover

The minimum tree cover requirement is 15% of the lot area or 0.675 acres. The project will exceed this requirement through the retention of 1.2 acres of forest as well as the retention of numerous individual trees

Significant Tree Replacement

Significant trees are defined as trees having a diameter at breast height (DBH) of 12" and greater outside of forest or 24" DBH and greater when located within forest. The project proposes to remove five significant trees resulting in a replacement requirement of 16 trees. However, one of these trees is within the forest area below the micro-bio retention pond, a 24" DBH tulip poplar (shown as tree # 39), and forestry is recommending that the storm drain pipe be relocated to avoid removing this tree. A note on the Pre FCP reflects this plan revision and is also referenced in the pre application stormwater management concept approval issued by the Department of Public Works.

All significant replacement trees will be planted on site and shall meet the minimum planting size requirements per the FTPO. In addition to the removal of the significant trees, there are 17 additional trees proposed for removal that do not require replacement. All proposed tree removals 6" DBH and greater are reflected on the Pre FCP. The final number of tree removals and replacements will be determined during Final FCP and detailed engineering review.

Staff Analysis and Findings

Section 25.15.01.b.2. of the Zoning Ordinance addresses major modification of approved special exception applications and is as follows; (a) Board of Appeals' Approval – if in the opinion of the Chief of Planning, the proposed modification substantially alters the nature, character, or intensity of the use or the conditions of the original grant, the Board must convene a public hearing on the proposed modification. Except as otherwise provided in this section of the ordinance, such request for modification is subject to the requirements set forth in Article 5, and the Board must receive and process applications for modification of a special exception in accordance with the provisions of that Article.

With regard to Article 5 of the Ordinance, all application procedures and public notice requirements have been fully satisfied by the applicant as of the writing of this staff report. As further stated, *"The Board of Appeals public hearing on this matter must be limited to consideration of the following; i) the proposed modifications as set forth in the application; and ii) those aspects of the special exception use that are directly related to, or affected by the proposed modification (ref. Section 25.15.01.b.2. of the Ordinance)"*.

Based on the information provided, staff has found no evidence that the applicant's proposal to increase the facility's current day shift staffing levels by an additional 30 new employees, would be inconsistent with the site's previously approved special exception applications S-50-61 and SPX96-0245. As noted in testimony provided before the Board of Appeals at a meeting held on October 7, 1961, which was one in a series of meetings held by the Board before voting to approved special exception (S-50-61), Seymour Guthman, (then) attorney for the applicant stated that "the nursing home's clientele generally will include geriatric cases, those persons having chronic diseases and those requiring post-operative or post serious illness care." In closing testimony, he further noted that "the motivating force behind Potomac Valley Nursing Home is the complete systematic approach to both medical and social problems. We plan, therefore, in addition to full-time nursing and medical care, physical and occupational therapy case work service and recreational therapy."

The statements which Mr. Guthman made before the Board of Appeals in 1961 appear to be in keeping and consistent with the current mission of the nursing facility, as described in the applicant's current modification request. Note, "services include 24-hour nursing care for injury, illness, and advanced aging, rehabilitation therapies, short term therapies, end-of-life/palliative care, behavioral health care, nutrition therapies, and specialized care for Alzheimer's and memory impairments.

With regard to the applicant's proposal to construct 30 additional site parking spaces to accommodate an increase of 30 staff members to the primary day shift, there is no evidence such a staffing increase would alter or bring about substantive operational changes inconsistent with the nursing home's previously approved special exceptions. The new parking spaces in addition to other site parking spaces which are being improved to comply with design standards of the Zoning Ordinance are all located in the southern and southwestern areas of the site. All of these parking spaces are primarily screened from open public view, by existing mature trees and other proposed landscape materials and plantings. The provision of these required parking

spaces ensure the existing site use is in compliance with current vehicle parking standards of the Ordinance.

Throughout the processing of this modification request, the applicant has been working with the City Forester and Department of Public Works (DPW) staff, addressing forest conservation and stormwater management requirements. It is important to note that prior to the initial filing of the subject modification request, which was during the processing of the project's Pre Application PAM2012-00046, DPW staff discovered that there were physical improvements made to the rear site parking area, that had never been formally reviewed nor approved by the Department of Public Works. The applicant was informed that all such work would have to be brought into compliance with all applicable stormwater management and sediment control requirements. The applicant has worked with staff to address all such previous noncompliant storm water management issues, during and throughout the processing of this special exception modification request/proposal.

As indicated on the site plans and associated development documents, there are trees and other vegetative materials being removed to accommodate the site's new stormwater management facility and associated drainage infrastructure. The City Forester has approved the applicant's preliminary forest conservation plan, which addresses the replanting and replacement of trees being removed in association with proposed site and building improvements. In association with the subject modification request, the applicant also provided both a site landscape and lighting plan, which have been reviewed by staff and found to be acceptable. As proposed, the replacement and planting of additional trees and other vegetative materials ensure that the site's new stormwater management facilities, new and relocated rear area yard storage buildings, and associated surface parking spaces are appropriately screened and buffered from neighboring land uses.

In response to concerns raised by a number of neighboring property owners with regard to the site's air conditioning cooling tower and plans to replace the facility's backup emergency above ground electrical generator, the applicant hired Phoenix Noise & Vibration, LLC to conduct an evaluation of the noise levels which would be generated by that equipment. The purpose of the evaluation was to analyze the potential for mechanical noise impact upon adjacent residential properties.

The consultant's noise generation analysis concluded the following: As measured at the closest residential properties, noise levels radiated from the new emergency generator (with sound enclosure) and existing cooling tower (with 8-foot sound barrier) at Potomac Valley Nursing and Wellness Center will be below Montgomery County's daytime and nighttime (noise level) limits. Compliance with required noise level limits is contingent upon the construction of an 8-foot noise barrier along the eastern and southern sides of the existing cooling tower, and a fabricated sound enclosure for the new emergency generator capable of reducing generator noise to 55dBA at a distance of 36 feet (See Attachment 5).

Conclusion

In summary and based on all available information, the proposed staffing increase, along with all of the site and building improvements, will not substantively alter the physical character nor current operations of the existing nursing home, such that the modifications proposed will adversely impact surrounding land uses. The applicant does not propose to physically expand the existing building structure, alter or increase services currently being provided, nor cause vehicular traffic to increase within the subject site area.

As noted in the subject request, "at peak times during the major daytime shift, between the hours of 10:00 a.m. and 2:00 p.m. Monday thru Friday, the maximum number of staff members working on site will be one hundred (100). This peak includes full-time and part-time overlapping day shift administrative, medical, and operations staff. At scattered times, five (5) traveling corporate representatives, consultants, and specialists visiting patients by appointment, visit the facility at different times and on variable days during the month."

While there will be an increase in the number of vehicle entering and exiting the site, the trips will be spread out over the course of the day and not generated during peak morning or evening travel hours. It is noted that of the 30 additional staff members that will be working the day shift, many are consultants or specialists who are on site part of the daytime shift and not necessarily arriving and departing during the morning and evening peak travel hours. Thus, there is no evidence the additional vehicular traffic being generated by the additional 30 new staff members will adversely impact site area streets and roadways.

In an effort to mitigate the visual presence of the rear yard accessory buildings and new surface parking facilities from the neighboring residential homes to the east, the applicant will install additional trees and other vegetative materials as shown on the landscape plans submitted with this request. The additional plantings will supplement the existing mature trees and other vegetative materials which are now located in and around those site improvements.

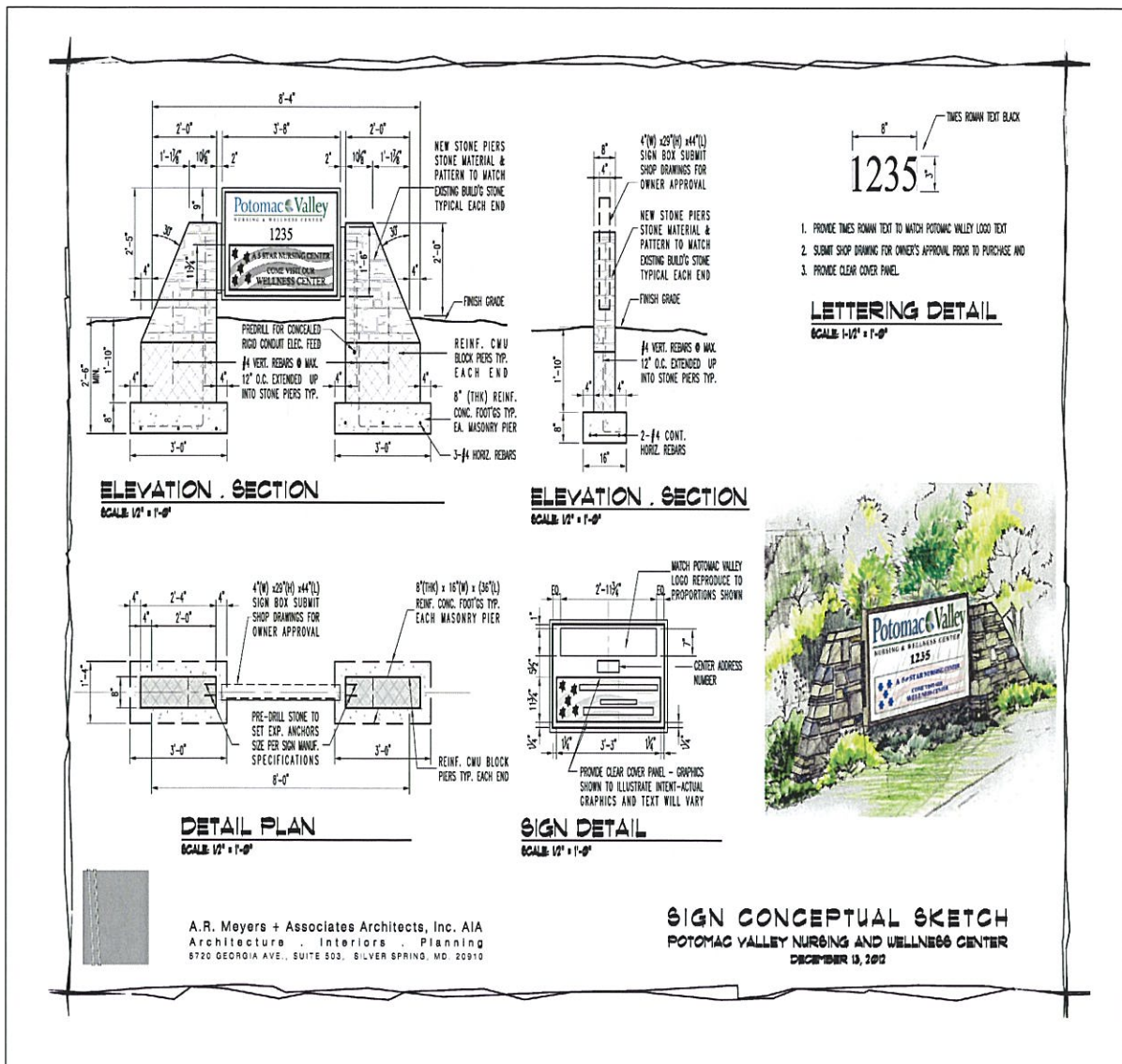
Staff notes that the modification request does not violate applicable development standards of the City's Zoning Ordinance or other law. The request as submitted, complies with all R-90 zoning building setbacks, lot coverage and building height restrictions, vehicular parking requirements, etc.

COMMUNITY OUTREACH

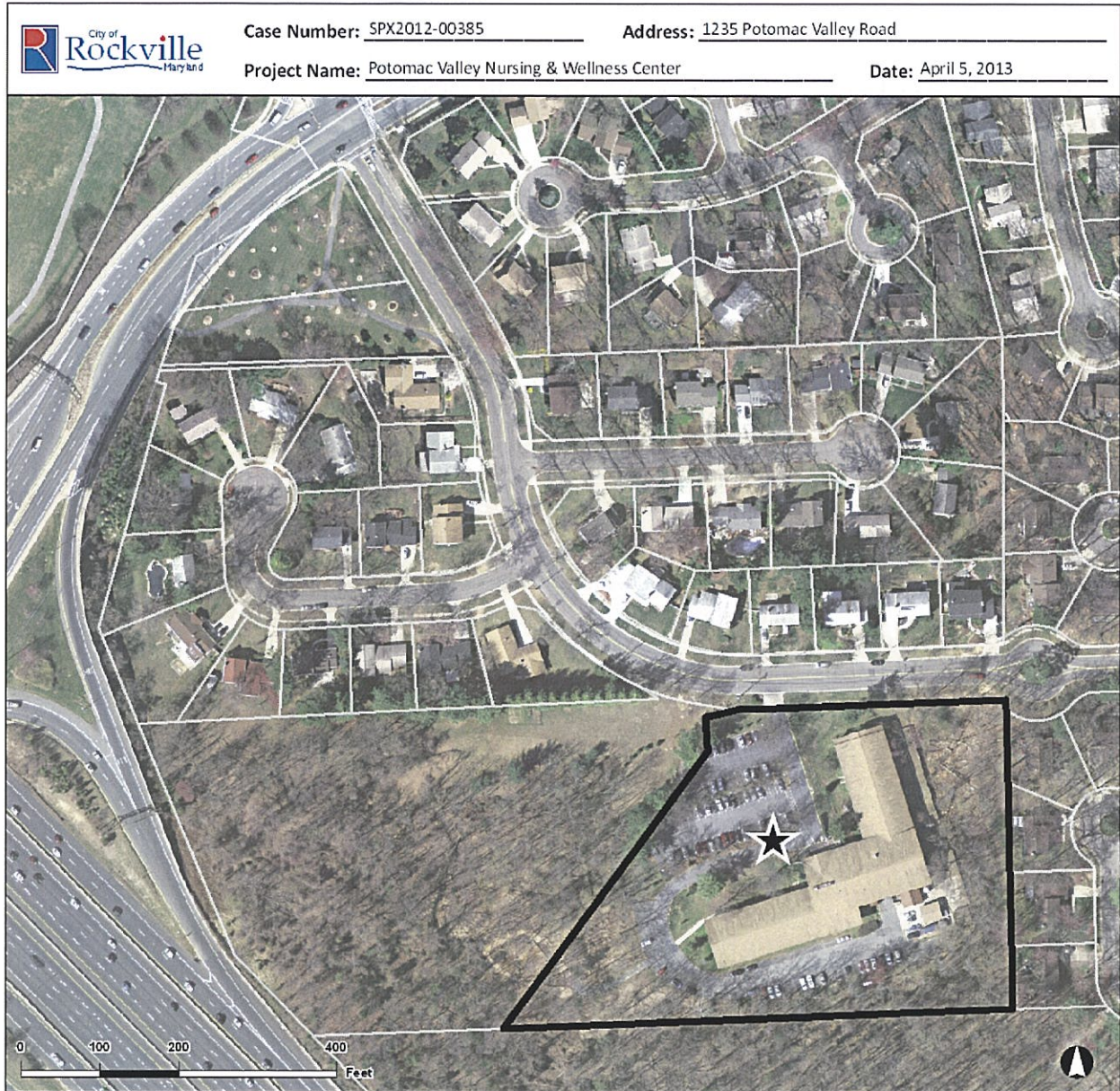
In accordance with Section 25.05.03.c. and 25.07.03 of the Zoning Ordinance, written notice of all area meetings and the scheduled Board of Appeals public hearing were mailed to 409 surrounding property owners located within the subject site area. Also, the required public hearing sign has been posted on the subject property throughout the processing of the subject application request. Since the initial filing of the application request on February 17, 2012, the

applicant has held three area meetings with surrounding property owners; public notice of all such meetings were adhered to by the applicant in accordance with the above referenced public notification requirements of the Ordinance. The purpose of the meetings was to discuss the modification request and illustrate how all proposed site improvements were to be implemented and have the applicant answer any questions that interested persons attending the meetings had with regard to the proposal.

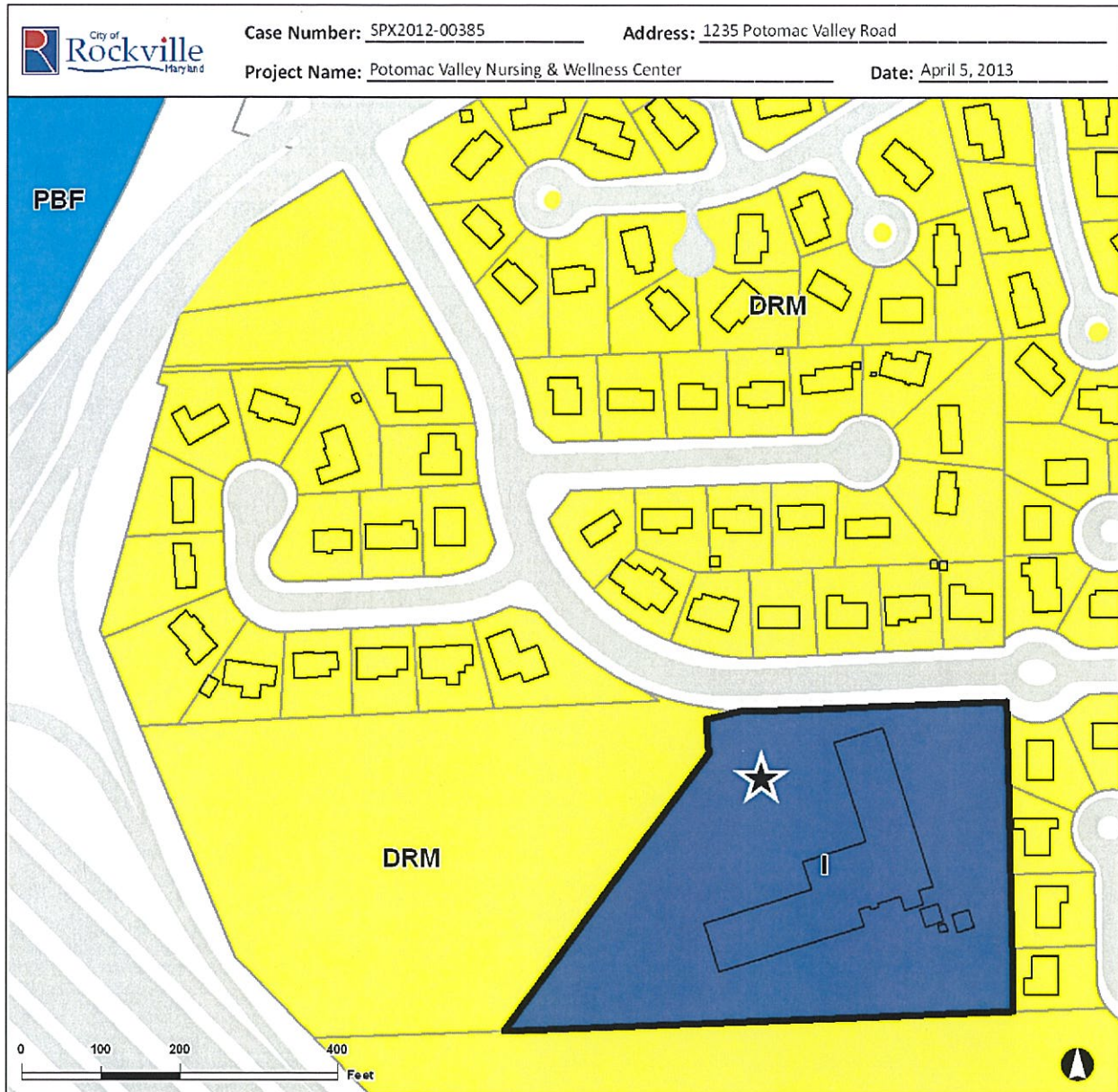
Proposed New Site I.D. Sign



Attachment 1: Aerial



Attachment 2: Planned Land Use Map

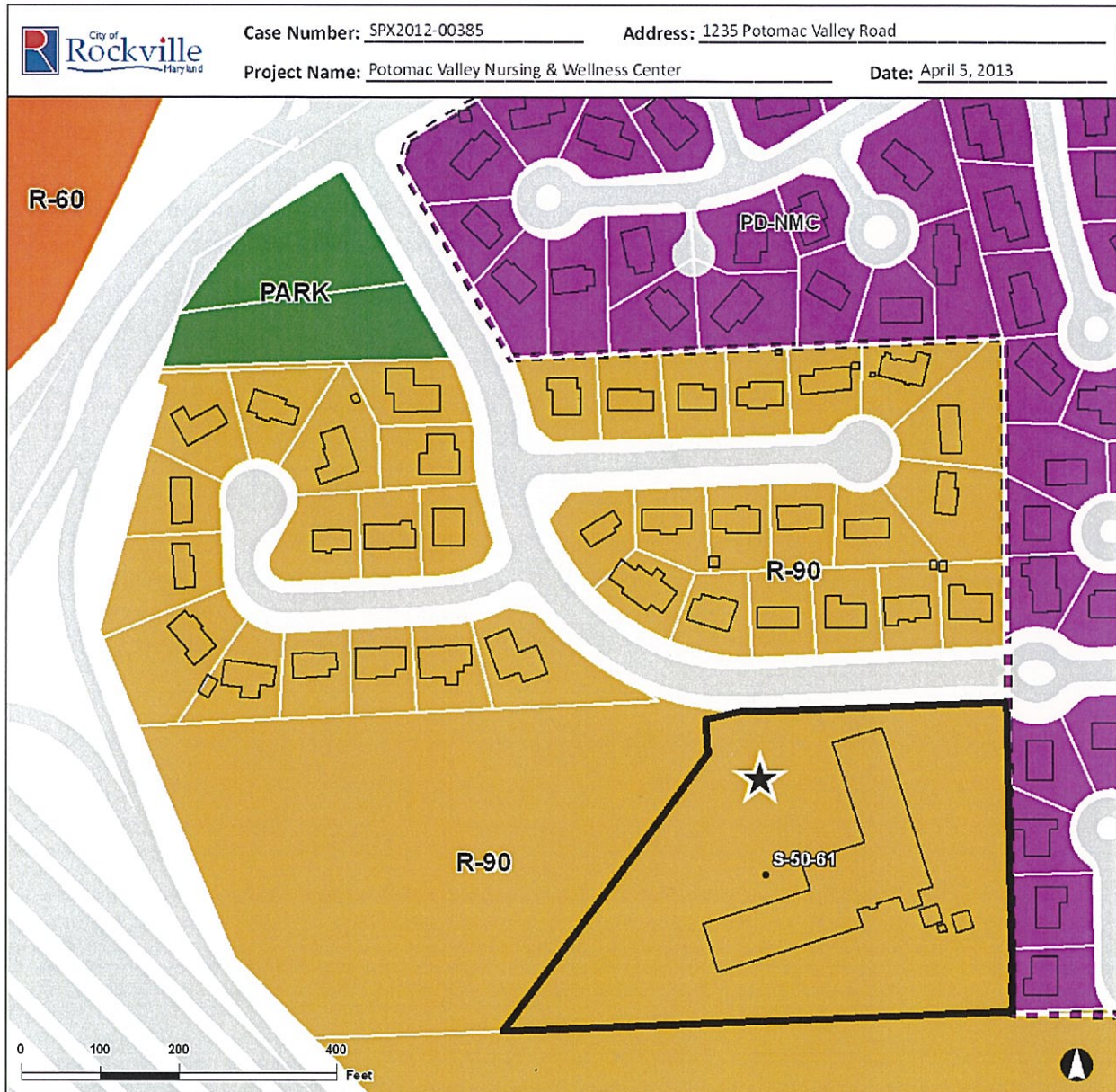


Legend

DRL - Detached Residential (Low Density Less Than 2.5 Units Per Acre)	PRSF - Preferred Residential - Single-family Detached	MUI - Mixed Use Industrial
DRM - Detached Residential (Medium Density 2.5 to 4 Units Per Acre)	PRSFA - Preferred Residential - Single-family Attached	PBF - Public Buildings and Facilities
DRH - Detached Residential (High Density Over 4 Units Per Acre)	PRSFAD - Preferred Residential - Single-family Attached/Detached	PI - Public and Institutional
GA - Garden Apartments	PRMF - Preferred Residential - Multi-family	I - Institutional
AR - Attached Residential	PC - Preferred Commercial	PRCA - Private Recreational and Conservation Area
HRA - High Rise Apartments	POLW - Preferred Office/Live Work Space	POS - Private Open Space
NC - Neighborhood Commercial	PO - Preferred Office	PPOS - Public Park and Open Space
GC - General Commercial	MUPO - Mixed-Use Preferred Office	RPR - Rockville Pike Residential
EC - Entertainment Corridor	MUPR - Mixed-Use Preferred Residential	RPCMUD - Rockville Pike Corridor Mixed-Use Development
SI - Service Industrial	MR - Mixed Residential	CPD - Comprehensive Planned Development
RIOP - Restricted Industrial / Office Park	MUC - Mixed Use Commercial	Rockville city limits
RRW - Rail Right-of-Way	MUD - Mixed Use Development	Maximum Expansion Limit

★ Project Location

Attachment 3: Zoning Map



Legend

- R-400 - Residential Estate
- R-200 - Suburban Residential
- R-160 - Low Density Residential
- R-80 - Single Unit Detached Dwelling, Restricted Residential
- R-75 - Single Unit Detached Dwelling, Residential
- R-60 - Single Unit Detached Dwelling, Residential
- R-40 - Single Unit Semi-detached Dwelling, Residential
- RMD-10 - Residential Medium Density
- RMD-15 - Residential Medium Density
- RMD-25 - Residential Medium Density

- MXB - Mixed-Use Business
- MXC - Mixed-Use Commercial
- MXCD - Mixed-Use Corridor District
- MXE - Mixed-Use Employment
- MXNC - Mixed-Use Neighborhood Commercial
- MXT - Mixed-Use Transition
- MXTD - Mixed-Use Transit District
- PD - Planned Development
- PARK - Park Zone
- IL - Light Industrial

★ Project Location

Rockville city limits

Zoning Overlays

- Clusters
- Historic Preservation Parcels
- Lincoln Park Conservation Overlay
- Planned Developments
- Town Center Performance District
- Twinbrook Metro Performance District
- Special Exceptions